AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN ASSEMBLY MAY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 2264

Introduced by Assembly Member Levine

February 21, 2014

An act to amend Sections 13955 and 13957 of the Government Code, and to amend Sections 600.2 and 600.5 of the Penal Code, relating to victim compensation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2264, as amended, Levine. Victim compensation: guide, signal, or service dogs.

Existing law provides for the compensation of victims and derivative victims of certain crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law establishes limits on the amount of compensation the board may award, and sets forth eligibility requirements for compensation, including, among others, that the victim or derivative victim suffer physical injury or emotional injury and a threat of physical injury, as specified.

Under existing law, it is an infraction or a misdemeanor for any person to permit any dog which is owned, harbored, or controlled by him or her to cause injury to or the death of any guide, signal, or service dog, as defined, while the guide, signal, or service dog is in discharge of its duties. Existing law makes any person who intentionally causes injury

to or the death of any guide, signal, or service dog, as defined, while the dog is in discharge of its duties, guilty of a misdemeanor. Under existing law, if a defendant is convicted of either of these crimes, the defendant is required to make restitution to the person with the disability who has custody or ownership of the dog for any veterinary bills, replacement costs of the dog, or other reasonable costs deemed appropriate by the court if the dog is disabled or killed.

This bill would provide that ~~persons~~ *a person* with a disability whose guide, signal, or service dog is disabled or killed due to either of the crimes described above ~~are~~ *is* eligible for compensation from the Restitution ~~Fund if the defendant is unable to make restitution.~~ *Fund.*

By expanding the authorization for the use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 13955 of the Government Code is amended to read:

13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of the following:

(1) A victim.

(2) A derivative victim.

(3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph (9) of subdivision (a) of Section 13957.

(B) This paragraph applies without respect to any felon status of the victim.

(b) Either of the following conditions is met:

(1) The crime occurred within this state, whether or not the victim is a resident of the state. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

(2) Whether or not the crime occurred within the State of California, the victim was any of the following:

(A) A resident of the state.

(B) A member of the military stationed in California.

(C) A family member living with a member of the military stationed in this state.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of this state, or resident of another state, who is any of the following:

(1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(2) At the time of the crime was living in the household of the victim.

(3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

(4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.

(d) The application is timely pursuant to Section 13953.

(e) (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.

(2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.

(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (b) of Section 191.5, subdivision (c) of Section 192, or Section 192.5 of the Penal Code.

(F) Caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

(C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(4) Injury to, or the death of, a guide, signal, or service dog, as defined in Section 54.1 of the Civil Code, as a result of a violation of Section 600.2 or 600.5 of the Penal Code. ~~This paragraph shall apply only if the defendant is unable to make restitution to the victim pursuant to Section 600.2 or 600.5 of the Penal Code.~~

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.7, inclusive.

SEC. 2. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ($10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ($5,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a

derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(iii) A minor who suffers emotional injury as a direct result of witnessing a violent crime and who is not eligible for reimbursement of the costs of outpatient mental health counseling under any other provision of this chapter. To be eligible for reimbursement under this clause, the minor must have been in close proximity to the victim when he or she witnessed the crime.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraph (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling-related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the

board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars ($1,000). Reimbursement shall be made either upon verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant. For purposes of this paragraph, a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one claimant per crime giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the claimant. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed two thousand dollars ($2,000). For purposes of this paragraph a claimant is the crime victim, or, if the victim is

deceased, a person who resided with the deceased at the time of the crime.

(C) The board may, under compelling circumstances, award a second cash payment or reimbursement to a victim for another crime if both of the following conditions are met:

(i) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same offender.

(D) When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(E) Notwithstanding subparagraphs (A) and (B), the board may increase the cash payment or reimbursement for expenses incurred in relocating to an amount greater than two thousand dollars ($2,000), if the board finds this amount is appropriate due to the unusual, dire, or exceptional circumstances of a particular claim.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars ($7,500).

(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars ($1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(11) When the crime is a violation of Section 600.2 or 600.5 of the Penal Code, *the board may* reimburse the expense of veterinary services, replacement costs, or other reasonable expenses, as ordered by the court pursuant to Section 600.2 or 600.5 of the Penal Code. ~~This paragraph shall apply only if the defendant is unable to make restitution to the victim.~~

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars ($35,000), except that this amount may be increased to seventy thousand dollars ($70,000) if federal funds for that increase are available.

SEC. 3. Section 600.2 of the Penal Code is amended to read:

600.2. (a) It is a crime for any person to permit any dog which is owned, harbored, or controlled by him or her to cause injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the guide, signal, or service dog is in discharge of its duties.

(b) A violation of this section is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) if the injury or death to any guide, signal, or service dog is caused by the person's failure to exercise ordinary care in the control of his or her dog.

(c) A violation of this section is a misdemeanor if the injury or death to any guide, signal, or service dog is caused by the person's reckless disregard in the exercise of control over his or her dog, under circumstances that constitute such a departure from the conduct of a reasonable person as to be incompatible with a proper regard for the safety and life of any guide, signal, or service dog. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year, or by a fine of not less than two thousand five hundred dollars ($2,500) nor more than five thousand dollars ($5,000), or both. The court shall consider the costs ordered pursuant to subdivision (d) when determining the amount of any fines.

(d) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the guide, signal, or service dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. The costs ordered pursuant to this subdivision shall be paid prior to any fines. ~~If the defendant is unable to make restitution, the~~ *The* person with

the disability may apply for compensation by the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 600.5 of the Penal Code is amended to read:

600.5. (a) Any person who intentionally causes injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the dog is in discharge of its duties, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both a fine and imprisonment. The court shall consider the costs ordered pursuant to subdivision (b) when determining the amount of any fines.

(b) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. The costs ordered pursuant to this subdivision shall be paid prior to any fines. ~~If the defendant is unable to make restitution, the~~ *The* person with the disability may apply for compensation by the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

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